

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

DATE OF DECISION

:

31.1.90

P R E S E N T

HON'BLE SHRI S.P. MUKERJI, VICE CHAIRMAN &  
HON'BLE SHRI N.DHARMADAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO.67/90

1. The National Union of Telegraph Traffic Employees (Group D) Kerala Circle, represented by its Secretary
2. K.J.Santhiavu .. Applicants

v.

1. Union of India, represented by the Secretary to the Ministry of Communications, New Delhi.
2. The Chief General Manager, Telecoms, Kerala Circle, Trivandrum-33. .. Respondents

M/s. M.K. Damodaran, C.T. Ravikumar  
Alexander Thomas & Prabhanandan M.P.

.. Counsel for the applicants

O R D E R

Shri S.P. Mukerji, Vice-Chairman

In this application the National Union of Telegraph Traffic Employees (Group D) and another Telegraphman has prayed that the Union of India and the Chief General Manager, Telecom, Kerala Circle should be directed to pay the Telegraphmen salary in the scale of Rs.825-1200 as is available to Postmen in the Postal Department and fix their pay with effect from 1.1.86 in that scale with arrears.

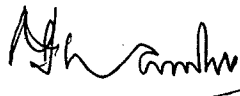
2. We have heard the arguments of the learned counsel <sup>h</sup> and the additional statement filed by him <sup>h</sup> for the applicants, and find ourselves unable to intervene in the matter. The learned counsel for the applicants concedes that the Telegraphmen and the Postmen have been remunerated in different scales of pay throughout in the past. After the recommendations of the 4th Pay Commission

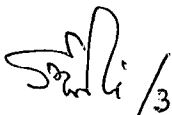
the Telegraphmen have been allowed the scale of pay of Rs.750-940 whereas the Postmen the pay scale of Rs.825-1200. According to the applicants, the Postmen in the Postal Deptt. are the counterparts of the Telegraphmen in the Telecommunications Department and the latter discharge more responsibilities than the former in the matter of identification of addressees, keeping the secrecy of the telegrams and abnormal working hours. By paying them a lesser salary than that of the Postmen, the principle of equal pay for equal work has been violated. While saying so, the applicants have conceded that the doctrine of equal pay for equal work would apply to a case where the two categories are performing identical work under the same employer. The applicants have cited a ruling of the Supreme Court in AIR 1982 SC 879 in support of their claim for equal pay for equal work and parity with the pay scale of Postmen. We are afraid ~~that~~ no judicial intervention is called for in this case on the principle of equal pay for equal work as the applicants have themselves conceded that Postmen and Telegraphmen are not identical posts with identical duties. Accordingly, the principle of equal pay for equal work cannot be attracted in this case, as has also been admitted by the learned counsel, the Telegraphmen and Postmen had all along been on different pay scales. Judicial intervention could have been called for, if having been in the same pay scale or higher pay scale than that of Postmen earlier, the Telegraphmen had been given lower pay scale than the Postmen on revision of the pay scales. In Supreme Court Employees Welfare Association v. Union of India & Another, Judgements Today, 1989(3) S.C 188, the Supreme Court has held that it is not for the Courts to fix pay scales

and only Government can do that. Courts can intervene if there is violation of fundamental rights or if there has been any invidiousness, discrimination, arbitrariness or patent error in law. In the same case the Supreme Court held that equation of posts had to be better left with the Government or the Pay Commission and that Courts should not tinker with the question of equivalence of posts unless there has been some extraneous considerations or arbitrariness or discrimination. A number of Pay Commissions have been seized of the question of revision of pay scales and in that process various categories of officials have been putting up their claims of equivalence or higher pay before such Commission. Only recently the 4th Pay Commission had made recommendations about the revision of pay scales on the basis of which revised pay scales have been allowed to Postmen and Telegraphmen. If there had been any case for giving the pay scale of postmen to the Telegraphmen, the 4th Pay Commission should have given them the necessary relief. It is not for the Tribunal to reopen the question of difference in pay scales between the Postmen and Telegraphmen which have been there throughout in the past. We have gone through the judgment of the Supreme Court, as referred to by the applicants and find that the dicta in that case cannot be availed of by the applicants before us. The Supreme Court in that case also made it clear that equation of posts and equation of pay are matters primarily for the Executive Government and the Expert Bodies like the Pay Commission and not for the Courts to determine. In that case the question was of parity of pay scales of Drivers working under various Departments of the Delhi

Administration. In the instant case, before us, the designations and departments of the posts are different. Thus the posts being not identical, the Telegraphmen and Postmen cannot invoke the principle of equal pay for equal work through the ruling of the Supreme Court in the aforesaid case. <sup>For</sup> For the same reason the ruling of the Supreme Court in AIR 1988 SC 1970 also will not apply. <sup>For</sup>

3. Accordingly we see no force in the application and dismiss the same under Section 19(3) of the Administrative Tribunals Act.

  
(N. Dharmadan) 31.1.90  
Judicial Member

 31.1.90  
(S. P. Mukerji)  
Vice Chairman

31-01-90.

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